IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL SIDE JURISDICTION

P.I.L.WRIT PETITION NO. 100 OF 2006

Janhit Manch and Ors. .....Petitioners.

vs.

BrihanMumbai Municipal

Corpn. and Ors. .....Respondents.

Mr.B.Raiyani, petitioner in person.

Ms.P.A.Purandare for respondent no.1.

Mr.V.M.Phal, AGP for respondent nos.2 and 3.

CORAM: J.N.PATEL (Actg.C.J.) &

S.C.DHARMADHIKARI, J.

DATED: 29th March, 2007.

P.C.

1. This is a Public Interest Litigation initiated by Janhit Manch and Others seeking writ of this Court to direct BMC to conduct a massive and detailed survey of all the encroachments existing on the public spaces in Mumbai in a comprehensive

manner as prayed for and take action for unauthorised and illegal encroachment and demolition of structure as directed by the Supreme Court reported in AIR 1985 SC 1206 and other ancillary reliefs. Mr.Singhvi, Learned Senior Counsel appearing for the Bombay Municipal Corporation, has drawn our attention to a judgment of the Supreme Court passed on 12.6.2006 in Appeal (Civil) 4156-4157 of 2002 where the Supreme Court has in turn directed this Court to keep its hands off the subject matter of the petition which is now being dealt with by the Supreme Court in relation to the whole country. Therefore, Mr.Singhvi, states that the Municipal Corporation would abide by the judgment of the Supreme Court and implement it as directed. In view of this, we are not inclined to entertain this petition and dispose it off accordingly. We make it clear that merely because this court has disposed off this petition, it does not exonerate the Bombay Municipal Corporation from taking action against unauthorised occupation and illegal construction in accordance with the provisions of the B.M.C.

Act. Unauthorised occupation and illegal construction can be dealt by this court on case to case basis as and when brought to the notice of this court for which officials of the Municipal Corporation would be held accountable. Petition stands disposed off accordingly.

2. The Petitioner submits that, this Court should not dispose off the petition and give him an opportunity of hearing. In our view, it will not be possible for this Court to take into consideration the relief sought for by the Petitioner as it will be beyond the capacity of the Court to monitor day to day encroachment and illegal construction and its removal which is statutory obligations of officials of BMC.

(S.C.Dharmadhikari, J) (Act.C.J.)